



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration

D1381B

San Francisco District
1431 Harbor Bay Parkway
Alameda, California 94502-7070
Telephone: (510) 337-6700

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Our Reference: 29-53794

January 29, 1998

Frank L. Pires, Jr.
4692 Avenue 248
Tulare, California 93274

WARNING LETTER

Dear Mr. Pires:

Tissue residue reports from the United States Department of Agriculture (USDA) and an investigation of your dairy on January 6, 13, and 14, 1998, by Food and Drug Administration (FDA) Investigator Thomas W. Gordon have revealed serious violations of the Federal Food, Drug, and Cosmetic Act as follows:

A food is adulterated under Section 402(a)(2)(D) of the Act if it contains a new animal drug that is unsafe within the meaning of Section 512. On October 16, 1997, you sold a cow (identified by USDA laboratory report number 394777) to be slaughtered for human food. This cow was delivered for introduction into interstate commerce by your firm and was adulterated by the presence of illegal antibiotic drug residues. USDA analysis of tissues from this cow revealed sulfadimethoxine in the liver at 2.10 parts per million (ppm), and in the muscle at 1.30 ppm. The tolerance level for sulfadimethoxine for the edible tissues of cows has been established at 0.10 ppm.

A food is adulterated under Section 402(a)(4) of the Act "if it has been prepared, packed, or held under insanitary conditions...whereby it may have been rendered injurious to health." As it applies in this case, "insanitary conditions" means that you hold animals which are ultimately offered for sale for slaughter as food under conditions which are so inadequate that medicated animals bearing possibly harmful drug residues are likely to enter the food supply. For example, our investigator noted the following:

1. You lack an adequate system for determining the medication status of animals you offer for slaughter.
2. You lack an adequate system for assuring that animals to which you administer medication have been withheld from slaughter for appropriate periods of time to deplete potentially hazardous residues of drugs.
3. You lack an adequate system for assuring that drugs are used in a manner not contrary to the directions contained in their labeling.
4. You lack an adequate inventory system for determining the quantities of drugs used to medicate your cows and calves.

The Albon brand sulfadimethoxine boluses that you use to treat your dairy cows are adulterated under Section 501(a)(5) of the Act in that they are new animal drugs within the meaning of Section 201(v) and are unsafe within the meaning of Section 512(a)(1)(B) of the Act, since they are not being used in conformance with approved labeling. The labeling requires a seven day withdrawal period prior to slaughter for food use. Failure to adhere to the prescribed withdrawal time is likely the cause of the presence of violative levels of sulfadimethoxine in the tissues of the animal you sold for food use.

Failure to comply with the label instructions on the drugs you use to treat your cows presents the likely possibility that illegal residues will occur and makes the drugs unsafe for use.

We request that you take prompt action to ensure that animals which you offer for sale as human food will not be adulterated with drugs or contain illegal residues.

Introducing adulterated foods into interstate commerce is a violation of Section 301(a) of the Act.

Causing the adulteration of drugs after receipt in interstate commerce is a violation of Section 301(k) of the Act.

You should be aware that it is not necessary for you to have personally shipped an adulterated dairy cow in interstate commerce to be responsible for a violation of the Act. The fact that you offered an adulterated dairy cow for sale to a slaughter facility where it was held for sale in interstate commerce is sufficient to make you responsible for violations of the Act.

Frank Pires Dairy
Tulare, California

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This is not intended to be an all-inclusive list of violations. It is your responsibility to ensure that all requirements of the Act are being met. Failure to achieve prompt corrections may result in enforcement action without further notice, including seizure and/or injunction.

Within fifteen days of the receipt of this letter, notify this office in writing of the specific steps you have taken to correct these violations and preclude their recurrence. If corrective action cannot be completed within fifteen working days, state the reason for the delay and the time frame within which corrections will be completed. Your response should address each discrepancy brought to your attention during the inspection and in this letter, and should include copies of any documentation demonstrating that corrections have been made. Please direct your reply to Thomas W. Gordon, CSO, 2202 Monterey Avenue, Suite 104E, Fresno, California, 93721.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Patricia C. Ziobro". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patricia C. Ziobro
District Director
San Francisco District

cc:

A large, solid black rectangular redaction mark covering several lines of text in the carbon copy field.